HONOURABLE SMT. JUSTICE T.MEENA KUMARI
&
HONOURABLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION No:9113 OF 2006

Dated: 09.10.2007

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Between:

Dr.B.G. Mallikarjuna Rao

..Petitioner

And

1. The Government of A.P., rep., by its Principal Secretary, Health, Medical & Family Welfare department, secretariat, Hyderabad and others.

.Respondents.

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HONOURABLE SMT. JUSTICE T.MEENA KUMARI
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HONOURABLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION No:9113 OF 2006

ORDER: (per Hon'ble Smt. Justice T. Meena Kumari)

This is a writ petition filed by the petitioner challenging the order of the tribunal, dated 8.3.2006 in O.A.No.1256 of 2006.

The 4th respondent herein is the applicant before the tribunal. She filed the above O.A. seeking to call for the records relating to and connected to the saving clause Under Rule 13 of the Special Rules issued under G.O.Ms.No.67, Health Medical & Family Welfare (I.2) Department, dated 14.3.2005 and quash the same by holding it as illegal and arbitrary and consequently to direct respondents 1 & 2 to consider the case of the applicant to the post of Assistant Professor/Senior Lecturer along with others who are having minimum 3 years of teaching experience as lecturer as prescribed in CCIM Regulations with all consequential benefits. The tribunal having observed that Rule 13 is contravening the guidelines issued in CCIM Regulations, 1994, quashed the same and directed the respondents to consider the case of the applicant for promotion to the post of Assistant professor/Senior Lecturer, strictly in accordance with Rule 5 of the Special Rules contained in G.O.Ms.No.67, dated 14.3.2005. Having affected by the order, the petitioner, who is not a party to the O.A., filed the present writ petition with the leave of the Court.

Heard the learned Counsel for the parties on record and perused the entire material on record.

On a perusal of the order impugned, it is obvious that it has been passed by the Tribunal even before filing of the counter by the learned Government Pleader. The tribunal having gone through the oral arguments has chosen to quash Rule 13 of Special Rules notified through G.O.Ms.No.67, Health, Medical & Family Welfare (I.2) Department, dated 14.3.2005 on the ground that Rule 13 is contravening the guidelines issued in CCIM Regulations, 1994. The order impugned is not on merits. As can be seen from the record, it is also clear that along with the petitioner who is a third party, some others have also been affected by the order of the tribunal. The controversy with regard to Rule 13 of the impugned G.O. has to be decided on its own merits after affording an opportunity to the parties concerned.

In this view of the matter and in view of the facts and circumstances of the case and in view of the fact that the order has been passed in the absence of filing of any counter and in view of the filing of the writ petition by a third party who is allegedly affected, We feel that it is a fit case where the matter can be remanded to the tribunal for fresh disposal. The official respondents shall be afforded an opportunity to file their counter within four (4) weeks from the date of receipt of a copy of the order and the tribunal shall dispose of O.A. within three months thereafter.

It is also made clear that the petitioner herein as well as the respondents, who were impleaded, are at liberty to file an application before the tribunal to come on record.

Subject to the above observations, the writ petition is allowed setting aside the order impugned and remanded to the tribunal for fresh disposal after giving an opportunity to the parties concerned and after filing of the counter by the respective parties on record. Till such time, status quo as on today shall be maintained.

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Justice T. Meena Kumari

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Justice G.Chandraiah

Date: 9.10.2007
Gurc/nn

HONOURABLE SMT. JUSTICE T.MEENA KUMARI
&
HONOURABLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION No:9113 OF 2006

(Order delivered by the Hon'ble Smt Justice T. Meena Kumari)

09/10/2007